IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION No. 26186 of 2005

Between:

Smt.Vijaya Lakshmi

..... PETITIONER

AND

The Manager, Bank of Baroda,

Aseelmetta Branch, Visakhapatnam

And 2 others

.....RESPONDENTS

ORDER:

Seeking a Mandamus, directing the respondents to hand over the documents relating to the House bearing No.5-36/28/A(old) and
5-35/180 (New) in plot No.28 in the part of the Survey No.400, situated at Kukatpally, Hyderabad as the petitioner purchased the said property from the respondents 2 and 3, the present writ petition is filed,

Heard the learned counsel for the petitioner.

The petitioner submits that in fact respondents 2 and 3 deposited title deeds in question with the 1st respondent bank as a security in favour of some third party in 1987. Thereafter, suppressing the said fact, the respondents 2 and 3 executed a sale deed in favour of petitioner on 05.03.1990 for the property in question and also executed an Undertaking-cum-Indemnity Bond, stating that the original documents have not been mortgaged or not given as security in favour of anybody, but the original documents have been lost and if any loss caused to the petitioner will be indemnified by the respondents 2 and 3.

The learned counsel for the petitioner submits that now the third party i.e. original borrower has paid back all dues to the 1st respondent bank and the 1st respondent is going to return the original documents in favour of respondents 2 and 3. He further submits that in fact, the petitioner will become owner and title will pass in favour of petitioner after paying the mortgaged amount, and therefore, the petitioner filed this writ petition, seeking a Mandamus.

I am of the opinion that the petitioner has got genuine case and if the respondents 2 and 3 have committed fraud in executing sale deed and Undertaking-cum-Indemnity Bond, but there is no privity of contract between the petitioner and the bank, and it is purely a civil dispute between the petitioner and respondents 2 and 3. The petitioner cannot seek Mandamus by filing this writ petition.

Accordingly, the Writ Petition is dismissed. It is left open for the petitioner to take

appropriate proceedings either before the Civil Court or by way of filing an application before the 1st respondent, seeking appropriate relief. No order as to costs.

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V.ESWARAIAH,J

Dated: 08.12.2005

Dsr